

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

| | | |
|-----------------------------------|---|--|
| | X | |
| | : | |
| FRANK QUAGLIA, | : | |
| | : | |
| Plaintiff, | : | Civil Action No. 04-10460 RWZ |
| -against- | : | |
| | : | DEFENDANT RAINBOW MEDIA |
| BRAVO NETWORKS, NATIONAL | : | HOLDINGS LLC'S RESPONSE TO |
| BROADCASTING COMPANY, INC., doing | : | PLAINTIFF'S ADDENDUM TO HIS MAY |
| business as NBC; RAINBOW | : | 31, 2005 MOTION TO COMPEL |
| PROGRAMMING HOLDINGS, INC., and | : | |
| DOES 1-10, | : | |
| | : | |
| Defendants. | : | |
| | X | |

Defendant Rainbow Media Holdings LLC, sued herein as Rainbow Programming Holdings, Inc. ("Rainbow"), by its undersigned counsel and pursuant to Local Rule 37.1, hereby submits its response to Plaintiff's Addendum to his May 31, 2005 Motion to Compel the production of certain documents and videotapes relating to the Bravo series, *The It Factor*.

I. Rainbow Has Provided Plaintiff with an Estimate of Revenues Attributable to *The It Factor*.

Plaintiff seeks documents showing revenues generated by *The It Factor* series from commercial advertising sales, product placement and merchandising. On June 24, 2005, Rainbow produced its estimate of the commercial advertising sales revenue attributable to *The It Factor*, based on Bravo's actual television advertising revenues for the period during which Bravo was owned in part by subsidiaries of Rainbow (until December 5, 2002). See Declaration of Laura M. Vasey, Esq. ("Vasey Decl."), Exhibit A hereto, Ex. 2; Declaration of John Huffman ("Huffman Decl."), Exhibit B hereto. Advertising revenue attributed to *The It Factor* was

calculated based on the daypart in which each episode aired and the ratings for each episode. *See* Huffman Decl. ¶ 3.

We note for the record that Rainbow's calculation of the advertising revenue attributable to *The It Factor* is an estimate, at best, and does not comply with generally accepted accounting principles. *See* Huffman Decl. ¶ 4. Although the estimated advertising revenue attributable to *The It Factor* is approximately \$300,000, Bravo eventually suffered a loss on the series of approximately \$1.1 million based on production expenses of approximately \$1.4 million. *See id.* ¶ 5 and Declaration of Debbie DeMontreux, Exhibit C hereto.

Based on the Bravo business records that remain in Rainbow's possession, Bravo received no revenue from merchandising or product placement for *The It Factor*. *See* Huffman Decl. ¶ 6.

II. Rainbow Has Delivered the Raw Video Footage from the Premiere Episode of *The It Factor* to DuArt, for Copying at Plaintiff's Expense.

Plaintiff seeks all raw video footage for the premiere episode of *The It Factor*, including any VHS copies of such footage in Zanzibar Productions, Inc.'s possession ("Zanzibar"). On Friday, June 17, 2005, Rainbow's counsel delivered the raw video footage for the premiere episode of *The It Factor* to DuArt, for copying at Plaintiff's expense. *See* L. Vasey Decl. ¶ 2, Ex. 1. The raw video footage delivered to DuArt is in mini-DV format, and Zanzibar has no copies of this footage in VHS format. *See* Declaration of Lauren Friedland Eskelin, Exhibit D hereto.

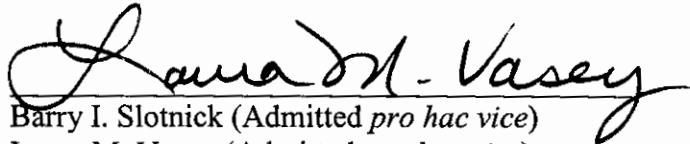
Conclusion

As Rainbow has produced the documents and video footage requested by Plaintiff to the extent they exist and are within Rainbow's possession, custody or control, Rainbow respectfully requests that Plaintiff's Addendum to his May 31, 2005 Motion to Compel be denied.

Respectfully submitted,

**RAINBOW MEDIA HOLDINGS LLC (sued
herein as RAINBOW PROGRAMMING
HOLDINGS, INC.)**

By its attorneys,



Barry I. Slotnick (Admitted *pro hac vice*)

Laura M. Vasey (Admitted *pro hac vice*)

LOEB & LOEB LLP

345 Park Avenue

New York, New York 10154

(212) 407-4000

Jonathan M. Albano, BBO #013850

BINGHAM MCCUTCHEN

150 Federal Street

Boston, Massachusetts 02110

(617) 951-8000

Dated: June 30, 2005

Certificate of Service

I hereby certify that a true copy of the above document was served upon Plaintiff and the attorney of record for each other party, as identified on the attached Service List, by overnight mail on July 1, 2005.


Jonathan M. Albano

SERVICE LIST

Plaintiff:

Frank Quaglia
35 Terry Lane
Barre, Massachusetts 01005
(978) 355-3456

Counsel for Defendants NBC and Bravo:

Daniel M. Kummer, Esq.
National Broadcasting Company, Inc.
30 Rockefeller Plaza
New York, New York 10112
(212) 664-6572

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X
:
FRANK QUAGLIA,
:
Plaintiff, Civil Action No. 04-10460 RWZ
:
-against- **DECLARATION OF LAURA M. VASEY**
:
IN SUPPORT OF DEFENDANT
BRAVO NETWORKS, NATIONAL **RAINBOW MEDIA HOLDINGS LLC'S**
BROADCASTING COMPANY, INC., doing **RESPONSE TO PLAINTIFF'S**
business as NBC; RAINBOW **ADDENDUM TO HIS MAY 31, 2005**
PROGRAMMING HOLDINGS, INC., and **MOTION TO COMPEL**
DOES 1-10,
:
Defendants.
-----X

LAURA M. VASEY hereby declares, pursuant to 28 U.S.C. § 1746(2), the following:

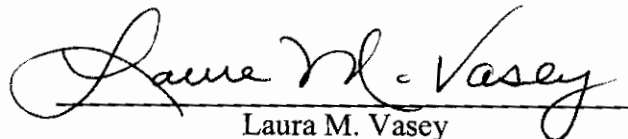
1. I am an attorney at Loeb & Loeb LLP, attorneys for Defendant Rainbow Media Holdings LLC, sued herein as Rainbow Programming Holdings, Inc. ("Rainbow"), in this matter. I respectfully submit this Declaration in support of Rainbow's Response to Plaintiff's Addendum to his May 31, 2005 Motion to Compel.

2. Attached hereto as Exhibit 1 is a true and correct copy of my letter dated June 17, 2005, which accompanied the raw video footage for the premiere episode of *The It Factor* delivered to DuArt on the same date, for copying by Plaintiff.

3. Attached hereto as Exhibit 2 is a true and correct copy of my letter dated June 24, 2005, and the Rainbow charts accompanying that letter.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 30, 2005


Laura M. Vasey

LOEB & LOEB LLP

A LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

345 PARK AVENUE
NEW YORK, NY 10154-0037

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Direct Dial: 212-407-4117
Direct Fax: 212-202-6127
e-mail: lvasey@loeb.com

By Hand Delivery

June 17, 2005

Denise Barrow
DuArt Film & Video
245 West 55th Street
New York, New York 10019

Re: Frank Quaglia v. Bravo Networks et al., No. 04 CV 10460 (D. Mass.)

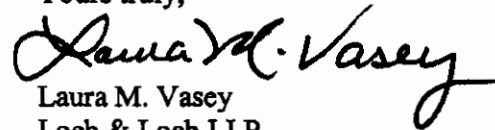
Dear Denise:

As discussed, we are delivering the enclosed Beta tapes to DuArt at the request of the plaintiff in the above-referenced action, Frank Quaglia. We expect that Mr. Quaglia will be contacting you to request that certain or all of the Beta tapes be copied onto VHS tapes. Any copies made for Mr. Quaglia will be at his expense.

For our part, we would like one set of VHS tapes containing the footage selected for copying by Mr. Quaglia. Please segregate the Beta tapes selected for copying from the remaining tapes for our recordkeeping purposes.

We appreciate your assistance in this matter. Should you have any questions, please feel free to contact me.

Yours truly,



Laura M. Vasey
Loeb & Loeb LLP

cc: Daniel Kummer, Esq.
Jonathan Albano, Esq.

lv:lv
20350310009
NY424645.1

NEW YORK
LOS ANGELES
CHICAGO
NASHVILLE

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e-mail: lvasey@loeb.com

June 24, 2005

BY E-MAIL AND OVERNIGHT MAIL

Mr. Frank Quaglia
35 Terry Lane
Barre, MA 01005

Re: Frank Quaglia v. Bravo Networks, et al., No. 04-10460 RWZ

Dear Mr. Quaglia,

Enclosed are two charts prepared by Rainbow, which attempt to allocate Bravo's advertising revenue to *The It Factor*. Please note that this analysis is an estimate, not within generally accepted accounting principles.

Very truly yours,

Laura M. Vasey
Loeb & Loeb LLP

Enclosures

cc: Daniel M. Kummer, Esq.
Jonathan M. Albano, Esq.

NEW YORK
LOS ANGELES
CHICAGO
NASHVILLE

Rainbow Media "It Factor" Advertising Revenue*

Dollars in thousands

| | Ad Sales Dayparts | | | | | | Total "It Factor" |
|--|-------------------|-------------|--------------|-------------|---------------|--|----------------------|
| | M-F 11a-4p | M-F 4p-7p | S/S 11a-7p | M-S 4a-6a | M-S 7p-4a | | |
| Exhibitions | - | - | 67 | 38 | 108 | | 213 |
| Minutes per Hour of Ad Time | 10 | 10 | 10 | 10 | 10 | | |
| Hours per Show | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | | |
| Spots per Show | 10 | 10 | 10 | 10 | 10 | | |
| ADU Liability | 20% | 20% | 20% | 20% | 20% | | |
| Cash Sellout | 61% | 85% | 86% | 3% | 83% | | |
| Spots Sold | - | - | 461 | 9 | 717 | | |
| Avg Cash Rate (Actual \$'s) | \$ 155 | \$ 511 | \$ 580 | \$ 146 | \$ 1,082 | | |
| Gross Revenue | \$ - | \$ - | \$ 267 | \$ 1 | \$ 776 | | \$ 1,045 |
| Net Cash Advertising Revenue Potential (a) | \$ - | \$ - | \$ 227 | \$ 1 | \$ 660 | | \$ 888 |
| Bravo Ratings | 0.16 | 0.26 | 0.26 | 0.13 | 0.33 | | |
| "It Factor" Ratings | - | - | 0.09 | 0.08 | 0.12 | | |
| Ratings Discounted Net Cash Advertising Revenue | \$ - | \$ - | \$ 76 | \$ 1 | \$ 235 | | \$ 311 |

(\$1,440)

*Budgeted Costs for Production of the First Season
of *The It Factor*

(a) Net of 15% agency commission.

Date Created: 06/14/05
Date Printed: 06/14/05

StarTrak Proprietary Reporting System

Bravo

"IT Factor" 2002 Airings

Date Created: 06/14/05
Date Printed: 06/14/05

| Ad Sales Dayparts | | | | | | |
|-------------------|---|-------------------|----------|---------|---|---|
| | 10:59 AM | 3:59 PM | 10:59 AM | 3:59 AM | | |
| | 10:59 AM | 3:59 PM | 10:59 AM | 3:59 AM | | |
| | 4:00 PM | 7:00 PM | 7:00 PM | 6:00 AM | | |
| | M-F 11a-4p M-R 4p-7p S-S 11a-7p M-S 4a-6a M-S 7p-4a | | | | | |
| Date | Label | Time | Day | Rating | | |
| 01/06/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.25 | - | - |
| 01/06/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.34 | - | - |
| 01/06/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.20 | - | - |
| 01/06/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.14 | - | - |
| 01/11/02 | THE IT FACTOR | 08:00 pm-08:30 pm | F | 0.07 | - | - |
| 01/11/02 | THE IT FACTOR | 08:30 pm-09:00 pm | F | 0.08 | - | - |
| 01/11/02 | THE IT FACTOR | 01:00 am-01:30 am | F | 0.08 | - | - |
| 01/11/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.11 | - | - |
| 01/12/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.08 | - | - |
| 01/12/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.16 | - | - |
| 01/13/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.17 | - | - |
| 01/13/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.18 | - | - |
| 01/13/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.08 | - | - |
| 01/13/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.07 | - | - |
| 01/18/02 | THE IT FACTOR | 08:00 pm-08:30 pm | F | 0.10 | - | - |
| 01/18/02 | THE IT FACTOR | 08:30 pm-09:00 pm | F | 0.08 | - | - |
| 01/18/02 | THE IT FACTOR | 01:00 am-01:30 am | F | 0.12 | - | - |
| 01/18/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.10 | - | - |
| 01/19/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.20 | - | - |
| 01/19/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.11 | - | - |
| 01/20/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.08 | - | - |
| 01/20/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.09 | - | - |
| 01/20/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.30 | - | - |
| 01/20/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.25 | - | - |
| 01/25/02 | THE IT FACTOR | 08:00 pm-08:30 pm | F | 0.19 | - | - |
| 01/25/02 | THE IT FACTOR | 08:30 pm-09:00 pm | F | 0.09 | - | - |
| 01/25/02 | THE IT FACTOR | 01:00 am-01:30 am | F | 0.12 | - | - |
| 01/25/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.11 | - | - |
| 01/26/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.12 | - | - |
| 01/26/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.11 | - | - |
| 01/26/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.08 | - | - |
| 01/26/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.04 | - | - |
| 01/27/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.25 | - | - |
| 01/27/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.37 | - | - |
| 01/27/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.18 | - | - |
| 01/27/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.14 | - | - |
| 02/01/02 | THE IT FACTOR | 08:00 pm-08:30 pm | F | 0.12 | - | - |
| 02/01/02 | THE IT FACTOR | 08:30 pm-09:00 pm | F | 0.14 | - | - |
| 02/01/02 | THE IT FACTOR | 01:00 am-01:30 am | F | 0.16 | - | - |
| 02/01/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.09 | - | - |
| 02/01/02 | THE IT FACTOR | 05:00 am-05:30 am | F | 0.06 | - | - |
| 02/01/02 | THE IT FACTOR | 05:30 am-06:00 am | F | 0.06 | - | - |
| 02/02/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.12 | - | - |
| 02/02/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.14 | - | - |
| 02/02/02 | THE IT FACTOR | 04:00 am-04:30 am | S | 0.06 | - | - |
| 02/02/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.11 | - | - |
| 02/03/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.10 | - | - |
| 02/03/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.08 | - | - |
| 02/03/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.28 | - | - |
| 02/03/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.17 | - | - |
| 02/08/02 | THE IT FACTOR | 08:00 pm-08:30 pm | F | 0.07 | - | - |
| 02/08/02 | THE IT FACTOR | 08:30 pm-09:00 pm | F | 0.01 | - | - |
| 02/08/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.13 | - | - |
| 02/09/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.15 | - | - |
| 02/09/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.13 | - | - |
| 02/09/02 | THE IT FACTOR | 04:00 am-04:30 am | S | 0.07 | - | - |
| 02/09/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.04 | - | - |
| 02/10/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.20 | - | - |
| 02/10/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.17 | - | - |
| 02/10/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.12 | - | - |
| 02/10/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.09 | - | - |

Bravo
"IT Factor" 2002 Airings

Date Created: 06/14/05
Date Printed: 06/14/05

Ad Sales Dayparts

10:59 AM 3:59 PM 10:59 AM 3:59 AM
4:00 PM 7:00 PM 7:00 PM 6:00 AM

| Date | Label | Time | Day | Rating | M-F 11a-4p | M-F 4p-7p | S-S 11a-7p | M-S 4a-6a | M-S 7p-4a |
|----------|---------------|---------------------|-----|--------|------------|-----------|------------|-----------|-----------|
| 02/15/02 | THE IT FACTOR | 08:30 pm - 08:30 pm | F | 0.21 | - | - | - | - | - |
| 02/15/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.21 | - | - | - | - | - |
| 02/16/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.14 | - | - | - | - | - |
| 02/16/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.05 | - | - | - | - | - |
| 02/16/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.13 | - | - | - | - | - |
| 02/17/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.17 | - | - | - | - | - |
| 02/17/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.08 | - | - | - | - | - |
| 02/17/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.13 | - | - | - | - | - |
| 02/17/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.12 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.10 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.17 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 01:00 am - 01:30 am | F | 0.13 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 01:30 am - 02:00 am | F | 0.11 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 05:00 am - 05:30 am | F | 0.07 | - | - | - | - | - |
| 02/22/02 | THE IT FACTOR | 05:30 am - 06:00 am | F | 0.04 | - | - | - | - | - |
| 02/23/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.13 | - | - | - | - | - |
| 02/23/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.10 | - | - | - | - | - |
| 02/23/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.15 | - | - | - | - | - |
| 02/23/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.09 | - | - | - | - | - |
| 02/24/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.14 | - | - | - | - | - |
| 02/24/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.16 | - | - | - | - | - |
| 02/24/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.16 | - | - | - | - | - |
| 03/01/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.06 | - | - | - | - | - |
| 03/01/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.02 | - | - | - | - | - |
| 03/01/02 | THE IT FACTOR | 01:00 am - 01:30 am | F | 0.05 | - | - | - | - | - |
| 03/01/02 | THE IT FACTOR | 01:30 am - 02:00 am | F | 0.03 | - | - | - | - | - |
| 03/02/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.14 | - | - | - | - | - |
| 03/02/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.11 | - | - | - | - | - |
| 03/02/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.07 | - | - | - | - | - |
| 03/03/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.10 | - | - | - | - | - |
| 03/03/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.10 | - | - | - | - | - |
| 03/03/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.07 | - | - | - | - | - |
| 03/03/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.12 | - | - | - | - | - |
| 03/03/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.04 | - | - | - | - | - |
| 03/08/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.03 | - | - | - | - | - |
| 03/08/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.07 | - | - | - | - | - |
| 03/09/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.18 | - | - | - | - | - |
| 03/09/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.10 | - | - | - | - | - |
| 03/09/02 | THE IT FACTOR | 04:00 am - 04:30 am | S | 0.08 | - | - | - | - | - |
| 03/09/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.11 | - | - | - | - | - |
| 03/10/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.10 | - | - | - | - | - |
| 03/10/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.13 | - | - | - | - | - |
| 03/10/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.03 | - | - | - | - | - |
| 03/10/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.07 | - | - | - | - | - |
| 03/15/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.07 | - | - | - | - | - |
| 03/15/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.10 | - | - | - | - | - |
| 03/15/02 | THE IT FACTOR | 01:00 am - 01:30 am | F | 0.06 | - | - | - | - | - |
| 03/16/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.09 | - | - | - | - | - |
| 03/16/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.09 | - | - | - | - | - |
| 03/16/02 | THE IT FACTOR | 04:00 am - 04:30 am | S | 0.06 | - | - | - | - | - |
| 03/16/02 | THE IT FACTOR | 04:30 am - 05:00 am | S | 0.02 | - | - | - | - | - |
| 03/17/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.15 | - | - | - | - | - |
| 03/17/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.15 | - | - | - | - | - |
| 03/17/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.14 | - | - | - | - | - |
| 03/17/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.06 | - | - | - | - | - |
| 03/22/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.14 | - | - | - | - | - |
| 03/22/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.13 | - | - | - | - | - |
| 03/22/02 | THE IT FACTOR | 01:15 am - 01:45 am | F | 0.08 | - | - | - | - | - |
| 03/22/02 | THE IT FACTOR | 05:00 am - 05:30 am | F | 0.06 | - | - | - | - | - |
| 03/22/02 | THE IT FACTOR | 05:30 am - 06:00 am | F | 0.04 | - | - | - | - | - |
| 03/23/02 | THE IT FACTOR | 06:00 pm - 06:30 pm | S | 0.14 | - | - | - | - | - |
| 03/23/02 | THE IT FACTOR | 06:30 pm - 07:00 pm | S | 0.11 | - | - | - | - | - |
| 03/24/02 | THE IT FACTOR | 09:00 pm - 09:30 pm | S | 0.06 | - | - | - | - | - |
| 03/24/02 | THE IT FACTOR | 09:30 pm - 10:00 pm | S | 0.06 | - | - | - | - | - |
| 03/24/02 | THE IT FACTOR | 12:00 am - 12:30 am | S | 0.09 | - | - | - | - | - |
| 03/24/02 | THE IT FACTOR | 12:30 am - 01:00 am | S | 0.10 | - | - | - | - | - |
| 03/29/02 | THE IT FACTOR | 08:00 pm - 08:30 pm | F | 0.13 | - | - | - | - | - |
| 03/29/02 | THE IT FACTOR | 08:30 pm - 09:00 pm | F | 0.15 | - | - | - | - | - |

Bravo
"IT Factor" 2002 Airings

Date Created: 06/14/05
Date Printed: 06/14/05

Ad Sales Dayparts

| Date | Label | Time | Day | Rating | M-F 11a-4p | M-F 4p-7p | SS 11a-7p | M-S 4a-6a | M-S 7p-4a |
|----------|---------------|-------------------|-----|--------|------------|-----------|-----------|-----------|-----------|
| 03/29/02 | THE IT FACTOR | 01:00 am-01:30 am | F | 0.03 | - | - | - | - | - |
| 03/29/02 | THE IT FACTOR | 01:30 am-02:00 am | F | 0.02 | - | - | - | - | - |
| 03/30/02 | THE IT FACTOR | 06:00 pm-06:30 pm | S | 0.05 | - | - | - | - | - |
| 03/30/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.04 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 09:00 pm-09:30 pm | S | 0.15 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 09:30 pm-10:00 pm | S | 0.09 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 12:00 am-12:30 am | S | 0.12 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.11 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 04:00 am-04:30 am | S | 0.19 | - | - | - | - | - |
| 03/31/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.17 | - | - | - | - | - |
| 04/06/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.02 | - | - | - | - | - |
| 04/13/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.06 | - | - | - | - | - |
| 04/20/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.11 | - | - | - | - | - |
| 04/27/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.07 | - | - | - | - | - |
| 05/11/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.12 | - | - | - | - | - |
| 05/12/02 | THE IT FACTOR | 02:00 pm-02:30 pm | S | 0.07 | - | - | - | - | - |
| 05/18/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.08 | - | - | - | - | - |
| 05/18/02 | THE IT FACTOR | 04:30 am-05:00 am | S | - | - | - | - | - | - |
| 05/24/02 | THE IT FACTOR | 04:30 am-05:00 am | F | 0.08 | - | - | - | - | - |
| 05/25/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.12 | - | - | - | - | - |
| 06/01/02 | THE IT FACTOR | 02:00 pm-02:30 pm | S | 0.10 | - | - | - | - | - |
| 06/01/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.10 | - | - | - | - | - |
| 06/08/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.06 | - | - | - | - | - |
| 06/08/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.18 | - | - | - | - | - |
| 06/15/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.10 | - | - | - | - | - |
| 06/22/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.10 | - | - | - | - | - |
| 06/22/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.01 | - | - | - | - | - |
| 06/29/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.17 | - | - | - | - | - |
| 07/06/02 | THE IT FACTOR | 06:30 pm-07:00 pm | S | 0.09 | - | - | - | - | - |
| 07/13/02 | THE IT FACTOR | 04:00 am-04:30 am | S | 0.11 | - | - | - | - | - |
| 07/13/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.12 | - | - | - | - | - |
| 07/14/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.12 | - | - | - | - | - |
| 07/14/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.09 | - | - | - | - | - |
| 07/14/02 | THE IT FACTOR | 02:00 pm-02:30 pm | S | 0.06 | - | - | - | - | - |
| 07/21/02 | THE IT FACTOR | 11:00 am-11:30 am | S | - | - | - | - | - | - |
| 07/21/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.04 | - | - | - | - | - |
| 07/28/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.03 | - | - | - | - | - |
| 07/28/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.06 | - | - | - | - | - |
| 08/03/02 | THE IT FACTOR | 12:30 am-01:00 am | S | 0.08 | - | - | - | - | - |
| 08/03/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.17 | - | - | - | - | - |
| 08/04/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.05 | - | - | - | - | - |
| 08/04/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.07 | - | - | - | - | - |
| 08/11/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.08 | - | - | - | - | - |
| 08/11/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.12 | - | - | - | - | - |
| 08/18/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.01 | - | - | - | - | - |
| 08/18/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.03 | - | - | - | - | - |
| 08/24/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.20 | - | - | - | - | - |
| 08/25/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.02 | - | - | - | - | - |
| 08/25/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.01 | - | - | - | - | - |
| 08/25/02 | THE IT FACTOR | 05:30 am-06:00 am | S | - | - | - | - | - | - |
| 09/01/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.17 | - | - | - | - | - |
| 09/01/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.10 | - | - | - | - | - |
| 09/08/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.02 | - | - | - | - | - |
| 09/08/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.04 | - | - | - | - | - |
| 09/14/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.09 | - | - | - | - | - |
| 09/15/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.01 | - | - | - | - | - |
| 09/15/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.04 | - | - | - | - | - |
| 09/21/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.06 | - | - | - | - | - |
| 09/22/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.04 | - | - | - | - | - |
| 09/22/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.04 | - | - | - | - | - |
| 09/28/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.13 | - | - | - | - | - |
| 09/29/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.11 | - | - | - | - | - |
| 09/29/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.09 | - | - | - | - | - |
| 10/05/02 | THE IT FACTOR | 01:00 pm-01:30 pm | S | 0.05 | - | - | - | - | - |
| 10/05/02 | THE IT FACTOR | 04:30 am-05:00 am | S | 0.08 | - | - | - | - | - |
| 10/06/02 | THE IT FACTOR | 11:00 am-11:30 am | S | 0.07 | - | - | - | - | - |
| 10/06/02 | THE IT FACTOR | 11:30 am-12:00 pm | S | 0.10 | - | - | - | - | - |
| 10/20/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.08 | - | - | - | - | - |

Date Created: 06/14/05
Date Printed: 06/14/05

Ad Sales Dayparts

| Date | Label | Time | Day | Rating |
|----------|---------------|-------------------|-----|--------|
| 10/20/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.10 |
| 10/20/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.04 |
| 10/26/02 | THE IT FACTOR | 05:30 am-06:00 am | S | - |
| 10/27/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.07 |
| 10/27/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.09 |
| 11/03/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.07 |
| 11/03/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.07 |
| 11/03/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.10 |
| 11/17/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.08 |
| 11/17/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.08 |
| 11/17/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.09 |
| 11/24/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.09 |
| 11/24/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.04 |
| 11/24/02 | THE IT FACTOR | 05:30 am-06:00 am | S | 0.02 |
| 12/01/02 | THE IT FACTOR | 02:00 am-02:30 am | S | 0.13 |
| 12/01/02 | THE IT FACTOR | 02:30 am-03:00 am | S | 0.14 |

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X
:
FRANK QUAGLIA,
:
Plaintiff,
:
-against-
:
BRAVO NETWORKS, NATIONAL
BROADCASTING COMPANY, INC., doing
business as NBC; RAINBOW
PROGRAMMING HOLDINGS, INC., and
DOES 1-10,
:
Defendants.
-----X

Civil Action No. 04-10460 RWZ

**DECLARATION OF JOHN HUFFMAN IN
SUPPORT OF DEFENDANT RAINBOW MEDIA
HOLDINGS LLC'S RESPONSE TO PLAINTIFF'S
ADDENDUM TO HIS MAY 31, 2005 MOTION TO
COMPEL**

I, John Huffman, state and declare as follows:

1. I am Senior Vice President-Finance for Rainbow Media Holdings LLC, sued herein as Rainbow Programming Holdings, Inc. ("Rainbow"). I make this declaration based upon personal knowledge, except as otherwise noted, and upon the information contained in the records of Rainbow, which are kept in the usual course of their business. I submit this declaration in support of Rainbow's Response to Plaintiff's Motion to Compel.

2. I understand that Plaintiff seeks the production of documents reflecting the revenue generated by *The It Factor* series from commercial advertising sales, product placement and merchandising.

3. I estimated the commercial advertising sales revenue attributable to *The It Factor* based on Bravo's actual television advertising revenues for the period during which Bravo was owned in part by subsidiaries of Rainbow (until December 5, 2002). Advertising revenue attributed to *The It Factor* was calculated based on the daypart in which each episode aired and the ratings for each episode. See Charts Entitled, "Rainbow Media 'It Factor' Advertising

Revenue” and “Bravo ‘It Factor’ 2002 Airings,” attached as Exhibit 2 to the Declaration of Laura M. Vasey.

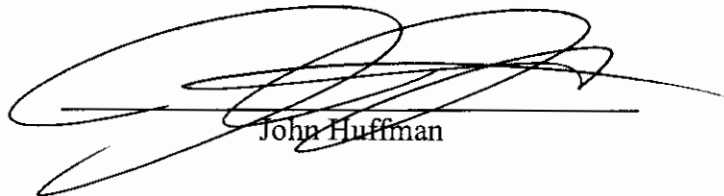
4. My calculation of the advertising revenue attributable to *The It Factor* is an estimate, at best, and does not comply with generally accepted accounting principles.

5. Although the estimated advertising revenues attributable to *The It Factor* is approximately \$300,000, Bravo eventually suffered a loss on the series of approximately \$1.1 million based on production expenses of approximately \$1.4 million (*see* Declaration of Debbie DeMontreux).

6. To the best of my knowledge and based on the Bravo business records that remain in Rainbow’s possession, Bravo received no revenue from merchandising or product placement for *The It Factor*.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 29, 2005



John Huffman

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X
:
FRANK QUAGLIA,
:
Plaintiff,
:
Civil Action No. 04-10460 RWZ
-against-
:
BRAVO NETWORKS, NATIONAL
SUPPORT OF DEFENDANT RAINBOW MEDIA
BROADCASTING COMPANY, INC., doing :
business as NBC; RAINBOW :
PROGRAMMING HOLDINGS, INC., and :
DOES 1-10, :
:
Defendants.
-----X

I, Debbie DeMontreux, state and declare as follows:

1. I am Vice President, Original Series and Events for IFC Television. I make this declaration based upon personal knowledge, except as otherwise noted, and the records I retained from Bravo's production of *The It Factor*, which have been produced in this action. I submit this declaration in support of Rainbow's Response to Plaintiff's Addendum to his May 31, 2005 Motion to Compel.

2. The budget for the first season of *The It Factor* (including all approved overages) was \$1,440,345.00 or \$110,795.76 per episode, for 13 episodes.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 29, 2005


Debbie DeMontreux

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | |
|-----------------------------------|---|
| -----X | : |
| FRANK QUAGLIA, | : |
| | : |
| Plaintiff, | : |
| | : |
| -against- | : |
| | : |
| BRAVO NETWORKS, NATIONAL | : |
| BROADCASTING COMPANY, INC., doing | : |
| business as NBC; RAINBOW | : |
| PROGRAMMING HOLDINGS, INC., and | : |
| DOES 1-10, | : |
| | : |
| Defendants. | : |
| -----X | : |

I, Lauren Friedland Eskelin, state and declare as follows:

1. I am one of the creators and co-producers of "The It Factor" series. I make this declaration based upon personal knowledge and upon the information contained in the records of Zanzibar Productions, Inc. I submit this declaration in support of Rainbow's Response to Plaintiff's Addendum to his May 31, 2005 Motion to Compel.

2. I understand that Plaintiff seeks all raw video footage for the premiere episode of *The It Factor* and any VHS copies of the same.

3. In August 2004, I produced to counsel all raw video footage taken for the premiere episode of *The It Factor*.

4. I am not aware of any VHS copies of the raw video footage taken for the premiere episode of *The It Factor*.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 21, 2005

Lauren Friedland Eskelin